

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

CATHY VALLES, §
§
Plaintiff, §
§
v. § Civil Action No. SA-08-CV-501-XR
§
JIMMY FRAZIER and §
ALLSTAR EROSION CONTROL, §
§
Defendants. §

ORDER TO REOPEN CASE

On this day, the Court considered Plaintiff's motion to reopen this case and for sanctions (Docket Entry No. 38) and Defendants' motion to extend the deadline to respond (Docket Entry No. 39). Having considered the motions, and there being no indication that Defendants are engaged in proceedings before a United States Bankruptcy Court, Plaintiff's motion to reopen the case is GRANTED. Defendants' motion to extend the deadline to respond is DISMISSED as moot. Accordingly, the Court LIFTS the stay of proceedings, and the Clerk is DIRECTED to reopen this case. Plaintiff may raise a motion for sanctions at the hearing scheduled for 9:30 A.M. on Thursday, June 17, 2010, if circumstances warrant it.

Background

Plaintiff Cathy Valles filed suit against Defendants Jimmy Frazier ("Frazier") and Allstar Erosion Control ("Allstar") seeking damages associated with a claim of sexual harassment in the workplace under 42 U.S.C. § 2000e-2(a) ("Title VII"). Ms. Valles alleges that Defendants engaged in gender discrimination and sexual harassment resulting in a hostile work environment; thereby, forcing Plaintiff to resign from her position.

Procedural History

On November 18, 2009, Plaintiff notified this Court that Defendant Jimmy Frazier filed for bankruptcy protection. *See In re Frazier*, No. 09-51494-lmc (Bankr. W.D. Tex. filed Apr. 27, 2009). The Court stayed proceedings in accordance with 11 U.S.C. § 362,¹ and the Clerk administratively closed the case.²

Defendants advised the Court that the Bankruptcy Court had dismissed their case, but that they would file another bankruptcy case.³ On May 13, 2010, Plaintiff moved the Court to reopen this case and consider a previously-filed motion for sanctions.⁴ Defendants moved to extend the time to respond to Plaintiff's motion.⁵

Discussion

On January 26, 2010, the Bankruptcy Court dismissed the bankruptcy case. *In re Frazier*, 09-51494-lmc (Bankr. W.D. Tex. Jan. 26, 2010) (Order for Summary Dismissal of Case).⁶ The case

¹Order to Stay Proceedings, Dec. 2, 2009 (Docket Entry No. 35).

²Order to Administratively Close Case, Jan. 4, 2010 (Docket Entry No. 36).

³Advisory to the Court, Feb. 2, 2010 (Docket Entry No. 37).

⁴Mot. to Re-open Case and for Sanctions, May 13, 2010 (Docket Entry No. 38). As a procedural matter, there is no pending motion for sanctions for the Court's consideration upon reopening this case. The motion for sanctions was dismissed without prejudice and Plaintiff would be allowed to renew the motion when the stay was lifted. This will require the filing of a new motions for sanctions that may be substantively identical to the previously-dismissed motion. In accordance with this order, however, Plaintiff may raise that motion at the scheduled status hearing.

⁵Mot. for Leave to File Resp. to Motion to Re-open and for Sanctions, May 24, 2010 (Docket Entry No. 39).

⁶Bankruptcy Court Docket Entry No. 108.

was closed on May 7, 2010.⁷ Although Defendants' February 2, 2010, advisory to the Court stated that a new bankruptcy case would be filed, there is no indication that Defendants are currently engaged in a bankruptcy proceeding before a United States Bankruptcy Court. This Court has jurisdiction to address Plaintiff Valles's claims against Defendants Jimmy Frazier and Allstar Erosion Control.

In light of this and other orders, the Court finds it necessary to hold a hearing to ascertain the status of this case. At that time, Plaintiff will be allowed to raise her motion for sanctions against Defendants.

Conclusion

Plaintiff's motion to reopen the case is GRANTED and Defendants' motion to extend the deadline to respond is DISMISSED as moot. Accordingly, it is ORDERED that the the stay of proceedings is LIFTED, and the Clerk is DIRECTED to reopen this case. Plaintiff may raise a motion for sanctions at the hearing scheduled for 9:30 A.M. on Thursday, June 17, 2010, if circumstances warrant it.

It is so ORDERED.

SIGNED this 26th day of May, 2010.



XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE

⁷An entry on the Bankruptcy Court's docket sheet notes that the case was closed on May 7, 2010. There is no corresponding docket entry number.